

### Agency Budget Comparison

The following table summarizes the total budget requested by the Governor for the agency by year, type of expenditure, and source of funding.

Agency Budget Comparison								
Budget Item	Base Fiscal 2008	Approp. Fiscal 2009	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 08-09	Biennium Fiscal 10-11	Biennium Change	Biennium % Change
FTE	397.08	397.08	403.58	403.58	397.08	403.58	6.50	1.64%
Personal Services	25,851,024	27,861,604	28,660,496	28,628,015	53,712,628	57,288,511	3,575,883	6.66%
Operating Expenses	7,811,135	8,420,155	8,769,425	8,724,077	16,231,290	17,493,502	1,262,212	7.78%
Equipment & Intangible Assets	104,887	397,053	113,531	118,663	501,940	232,194	(269,746)	(53.74%)
Grants	274,469	868,781	274,469	274,469	1,143,250	548,938	(594,312)	(51.98%)
Benefits & Claims	0	0	0	0	0	0	0	n/a
Debt Service	26,604	29,269	26,604	26,604	55,873	53,208	(2,665)	(4.77%)
<b>Total Costs</b>	<b>\$34,068,119</b>	<b>\$37,576,862</b>	<b>\$37,844,525</b>	<b>\$37,771,828</b>	<b>\$71,644,981</b>	<b>\$75,616,353</b>	<b>\$3,971,372</b>	<b>5.54%</b>
General Fund	32,171,909	35,547,624	35,512,972	35,406,928	67,719,533	70,919,900	3,200,367	4.73%
State Special	1,773,813	1,900,080	2,205,682	2,239,016	3,673,893	4,444,698	770,805	20.98%
Federal Special	122,397	129,158	125,871	125,884	251,555	251,755	200	0.08%
<b>Total Funds</b>	<b>\$34,068,119</b>	<b>\$37,576,862</b>	<b>\$37,844,525</b>	<b>\$37,771,828</b>	<b>\$71,644,981</b>	<b>\$75,616,353</b>	<b>\$3,971,372</b>	<b>5.54%</b>

### Agency Description

Mission Statement: The Judiciary's mission is to provide an independent, accessible, responsive, impartial and timely forum to resolve disputes; to preserve the rule of law; and to protect the rights and liberties guaranteed by the Constitutions of the United States and Montana.

Article III, Section I, and Article VII of the Montana Constitution authorizes the Judicial Branch. There are six programs within the branch: 1) Supreme Court Operations; 2) Boards and Commissions; 3) Law Library; 4) District Court Operations; 5) Water Court Supervision; and 6) the Clerk of the Supreme Court.

### Agency Highlights

Judicial Branch Major Budget Highlights	
<ul style="list-style-type: none"> <li>◆ 2011 biennium funding is 5.5 percent (\$4.0 million) greater than 2009 biennium funding, while general fund support increases 4.7 percent (\$3.2 million) between the two biennia</li> <li>◆ General fund support increases primarily due to statewide present law adjustments and new proposals which add \$1.1 million</li> <li>◆ General fund support for drug courts included in the base budget is \$326,202 per year or \$652,404 for the biennium. \$1.3 million was appropriated for the 2009 biennium</li> <li>◆ The 2011 biennium budget request includes 6.50 additional FTE, including 1.50 FTE Appellate Mediator, 1.00 FTE for the Self-help Law Program, and 4.00 FTE for district courts in four judicial districts</li> </ul>	
Major LFD Issues	
<ul style="list-style-type: none"> <li>◆ Statutory guidance included in the 2009 biennium appropriations act related to general fund support for the Self-help Law Program and Drug Treatment Courts expires at the end of the 2009 biennium</li> <li>◆ Measurable objectives for branch goals were not provided</li> </ul>	

**Agency Discussion***Goals and Objectives*

State law requires agency and program goals and objectives to be specific and quantifiable to enable the legislature to establish appropriations policy. As part of its appropriations deliberations the Legislative Fiscal Division (LFD) recommends that the legislature review the following:

- o Goals, objectives and year-to-date outcomes from the 2009 biennium
- o Goals and objectives and their correlation to the 2011 biennium budget request

2009 Biennium Major Goals

The following provides an update on the major goals monitored during the current interim.

Goal 1 – Deployment of automated case management system (FullCourt) in district courts throughout the state.

- o Successes
  - As of September, 2008 FullCourt had been installed in 25 district courts representing 74 percent of district court case filings
- o Challenges
  - Installation in Cascade County has been delayed until February 2009 due to the need for the county to complete selection of a jury pool prior to installation

**LFD  
COMMENT**

Funding for court automation was approved by the legislature as part of the long range planning process and was included in House Bill 4 of the May 2007 special session rather than the general appropriations act. Additional information is included in this narrative following the personal services discussion.

2011 Biennium Major Goals

The following provides an overview of major goals for the 2011 interim.

The items listed below were titled by the branch as goals and objectives. For the purpose of this analysis, the items listed will be considered goals. No objectives related to these goals were provided. The Judicial Branch goals are based in the Montana Constitution and do not change from year-to-year. Based on the Montana Constitution, the fundamental goals of the Judicial Branch are:

- o To provide equal access to justice
- o To provide justice without unreasonable delay
- o To preserve judicial independence
- o To provide excellence in service
- o To increase the public's trust and confidence in Montana Courts

**LFD  
ISSUE****Measurable Objectives Not Provided**

The goals above, while based upon the Constitution, do not include measurable objectives. Measurable objectives provide the reader an idea of how the goals will be met and should include information about how and when progress toward the goal will be measured. Measurable objectives should be specific, measurable, achievable, relevant and time-based (SMART) and are a tool that can be used by the legislature to determine how funding provided to the branch is used to achieve results.

Since the legislature has an obligation to fund the constitutionally delegated duties of the Judicial Branch, the legislature may wish to discuss with the branch how funding included in the budget correlates with these goals and how the branch measures progress toward their achievement. The legislature may also wish to discuss with the branch the development of measurable objectives related to branch goals.

**Agency Personal Services**

The following information is provided so that the legislature can consider various personal services issues when examining the branch budget. It was submitted by the branch and edited for brevity by the LFD.

*Branch Pay Plan and Allocation of 2009 Biennium Funding*

The Supreme Court, as directed by 3-1-130, MCA, adopted a pay and personnel plan in July 2002 following the state assumption of district courts. The court adopted a classified pay plan rather than a market-based pay plan because internal pay equity was the most pressing compensation problem for the Judicial Branch. (Internal equity was a significant issue because the state assumed employees from more than 30 counties with different pay plans.)

Funding restrictions in the ensuing years limited the Judicial Branch's ability to respond to the internal equity issues and exacerbated significant external market problems. The 2007 Legislature provided funding to address the internal equity situation. This, coupled with the (pay plan) funding equal to 3.6 percent pay increases in FY 2008 and 2009, allowed the branch to make progress in addressing both equity and market concerns.

The Supreme Court provided the following guidance for allocating the equity funding appropriated by the 2007 Legislature:

- Pay adjustments must address equity problems created by the state assumption of district courts
- Pay adjustments will generally be based upon the labor market rates for the position. (Note: The branch relies on the Department of Administration market data.)
- Pay adjustments will take into consideration the date of hire with the court system for the affected employees
- Pay adjustments cannot exceed available funding

With the equity funding, the Judicial Branch was able to address internal equity problems within the branch. Stated simply, employees performing the same jobs with similar years of service are now earning similar salaries. The bulk of these adjustments were provided to law clerks, judicial assistants, juvenile probation officers, and general clerical staff in the youth courts.

The Supreme Court provided the following guidance for allocating the general pay increase (3.6 percent) funding:

- Pay adjustments will take into consideration labor market rates for the position, the date of hire with the court system for the affected employees, and strategic issues such as retention and recruitment, internal equity or other relevant factors
- Each employee will receive a minimum of a 3 percent cost of living increase each year
- Pay adjustments cannot exceed available funding

- **Agency Market** - The branch has had some success in addressing external market issues but still has a long way to go. The target market ratio for all positions is 100 percent of market but with rare exception that ideal has not been met. Using the funding provided for general pay increases and within the existing personal services budget, the Judicial Branch has been able to move all employees to within 75 percent of the market for their position. Some employees, particularly those with 20 or more years of experience, are closer to 95 percent of market.

**LFD  
COMMENT**

The Judicial Branch indicates that while a market based pay plan is not utilized by the branch, most employees are within 75 percent of the market for their positions and some employees with 20 or more years of experience are close to 95 percent of market for their positions (based upon the market survey completed by the Department of Administration). In comparison most executive branch agencies begin new employees at 80 percent or more of the market rate for the position. The branch estimates \$511,000 per year would be needed to increase all employee salaries to a minimum of 80 percent of market for their positions.

- **Obstacles** - The Judicial Branch has had difficulty in retaining and recruiting staff. Positions that have proven the most difficult to fill include clerical positions, court reporters and chief juvenile probation officers.
- **Retirement** - In general, 10 percent of employees are eligible for full retirement in the upcoming biennium, and 15 employees have or may retire in FY 2008 and 2009. The Judicial Branch has not felt the full effect of the payouts resulting from these retirements in the District Court Operations Program because funding has generally been available to cover the payouts through the legislatively created county leave account. Approximately \$348,000 remains in this account. Once this funding is gone, the branch will need to hold district court positions open for a significant amount of time because many of the retirement-eligible employees have large leave balances.

### *Court Automation*

For several biennia the branch has been working on improving technology and increasing automation. Most recently, the branch received \$3.9 million general fund through HB 4 of the May 2007 special session for court technology improvements. Figure 1 summarizes the projects supported by the funding included in HB 4 of the 2007 May special session and the current status of those projects.

Figure 1 Judicial Branch Court Automation Funded in HB 4, 2007 Special Session		
Item	Funding	Status
FullCourt Case Management	\$1,100,000	Enterprise license purchased July, 2007; 33 district courts installed; target completion date February 2009
Judicial Calendaring	95,000	Project to be launched upon completion of FullCourt rollout;
Electronic Case Filing	540,000	Electronic Filing and Access to Court Record Task Force formed and defining functional and operational requirements; request for proposals to be issued Spring 2009
Document Management	900,000	See Electronic Case Filing
Courtroom Technology (Infrastructure and Equipment)	691,711	All court reporting/recording equipment has been upgraded; all but one court room wired for data connections to the state network, final wiring to occur November 2008; site visits made to 17 courthouse with audio system upgrades completed in 5 courtrooms
Interactive Video	608,289	Four new sites (Carbon, Sanders, Pondera, Teton) completed in first quarter 2008; five additional sites (Mineral, Broadwater, Sweet Grass, Deer Lodge, Madison) to be installed in conjunction with Department of Administration SummitNet II expansion with target completion date of January 2009
Total	<u>\$3,935,000</u>	

Of the projects supported by this funding, is most well known is likely to be the implementation of the FullCourt case management system. Installation of this system in courts of limited jurisdiction began in 2001, with funding provided by a user surcharge. However, revenues realized were not adequate to fund the technology improvements and as a result, the

2005 Legislature redirected this surcharge to the general fund and shifted funding of court information technology to the general fund. Installation of FullCourt in courts of limited jurisdiction was completed in the fall of 2006. The estimated software cost of FullCourt for courts of limited jurisdiction was \$1.1 million.

The branch began a pilot program using FullCourt in district courts in December 2005, with implementation in the 4<sup>th</sup> Judicial District (Missoula and Mineral counties). An enterprise license for the FullCourt case management and jury management systems was purchased in July 2007. To date, installation has been completed in 33 district courts and completion of installation in all district courts is targeted for February 2009. The estimated software cost for FullCourt for district courts is \$1.7 million. Ongoing maintenance costs are estimated at \$315,000 for FullCourt software maintenance and \$38,000 for the central repository. These costs and the cost of equipment replacement and data network cost are included in the base budget of the branch.

### Funding

The following table summarizes funding for the branch, by program and source, as recommended by the approving authority. Funding for each program is discussed in detail in the individual program narratives that follow.

Total Agency Funding 2011 Biennium Budget					
Agency Program	General Fund	State Spec.	Fed Spec.	Grand Total	Total %
01 Supreme Court Operations	\$ 18,568,019	\$ 296,472	\$ 251,755	\$ 19,116,246	25.28%
02 Boards And Commissions	577,599	142,487	-	720,086	0.95%
03 Law Library	1,825,884	-	-	1,825,884	2.41%
04 District Court Operations	48,991,694	789,110	-	49,780,804	65.83%
05 Water Courts Supervision	-	3,216,629	-	3,216,629	4.25%
06 Clerk Of Court	956,704	-	-	956,704	1.27%
Grand Total	<u>\$ 70,919,900</u>	<u>\$ 4,444,698</u>	<u>\$ 251,755</u>	<u>\$ 75,616,353</u>	<u>100.00%</u>

The Judicial Branch is supported primarily by general fund (93.8 percent) with state special revenue (5.0 percent) supporting specific functions, the largest of which is the Water Court. The Water Court is supported entirely by state special revenue. The branch also receives a small amount of federal funds (0.3 percent) for grants supporting specific projects such as the Court Assessment Program. Previously some federal grants were received to support certain drug treatment courts. However, the 2011 biennium budget does not include any federal grant funds for this purpose.

### Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Summary by Category								
Budget Item	-----General Fund-----				-----Total Funds-----			
	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget
Base Budget	32,171,909	32,171,909	64,343,818	90.73%	34,068,119	34,068,119	68,136,238	90.11%
Statewide PL Adjustments	2,630,916	2,644,180	5,275,096	7.44%	2,832,149	2,851,513	5,683,662	7.52%
Other PL Adjustments	129,775	28,526	158,301	0.22%	363,885	289,883	653,768	0.86%
New Proposals	580,372	562,313	1,142,685	1.61%	580,372	562,313	1,142,685	1.51%
<b>Total Budget</b>	<b>\$35,512,972</b>	<b>\$35,406,928</b>	<b>\$70,919,900</b>		<b>\$37,844,525</b>	<b>\$37,771,828</b>	<b>\$75,616,353</b>	

### Agency Issues

#### Statutory Appropriations

The following table shows the total statutory appropriations associated with this branch. Because statutory appropriations do not require reauthorization each biennium, they do not appear in HB 2 and are not routinely examined by the

legislature. The table is provided so that the legislature can get a more complete picture of agency operations and associated policy.

As appropriate, LFD staff has segregated the statutory appropriations into two general categories: 1) those where the agency primarily acts in an administrative capacity and the appropriations consequently do not relate directly to agency operations; and 2) those that have a more direct bearing on the mission and operations of the agency.

Statutory Appropriations Judicial Branch					
Purpose	MCA #	Fund Source	Fiscal 2008	Fiscal 2010	Fiscal 2011
<u>Direct Bearing on Agency Operations</u>					
Youth Court Intervention and Prevention Account	41-5-2011	SSR	\$2,012,568	\$0	\$0

#### Youth Court Intervention and Prevention Account

The Youth Court Intervention and Prevention account is established and statutorily appropriated in 41-5-2011, MCA. This account receives funds transferred from the Department of Corrections including:

- For each fiscal year \$25,000 for evaluations of out-of-home placements, programs, and services
- Unexpended funds from the judicial districts' annual allocations of juvenile placement funds
- Unexpended funds from the cost containment pool created from juvenile placement funds; per statute the cost containment pool must be at least \$1 million

#### **LFD ISSUE**

#### Level of Appropriation

Figure 2 summarizes revenues and expenditures for this account. It also provides information on the level of appropriation provided to the Department of Corrections for juvenile placements. As illustrated in the table, revenues into the fund averaged \$2.1 million each year between FY 2005 and 2008, while expenditures averaged \$1.1 million or about \$1.0 million less than the revenue into the account. While revenues have been close to or in excess of \$2.0 million each year, FY 2008 is the first year expenditures have been at this level. This excess of revenue inflow when compared to expenditure outflow results in an ending balance that is growing over time. As of the date of this writing the cash balance in the Youth Court Intervention and Prevention Account was \$3.6 million. Because the source of the funds for this account is general fund appropriated to the Department of Corrections for juvenile placements and on average about \$2.1 million per year of the appropriation is being transferred to this account, the question becomes what level of funding does the legislature wish to appropriate for juvenile placements, realizing that funds not spent on placements are transferred to this account used to support prevention and intervention programs.

Figure 2 Judicial Branch Youth Court Intervention and Prevention Account Fund 02151 - Statutorially Appropriated per 41-5-2011(2), MCA				
Fiscal Year	Revenue	Expenditures	Difference	Appropriation*
2005	\$2,099,025	\$683,909	\$1,415,116	\$7,682,757
2006	1,897,479	632,447	1,265,032	7,542,344
2007	2,337,641	1,186,278	1,151,363	7,542,344
2008	2,124,915	2,012,568	112,347	6,038,021
Annual Ave.	\$2,114,765	\$1,128,801	\$985,965	\$7,201,367
*Notes Appropriation represents the amount appropriated by the legislature to the Dept. of Corrections for juvenile placements. In FY 2006, \$1.5 million was transferred from juvenile placement funds to other areas in the Dept of Corrections to partially offset expenditures in excess of appropriations. The department did not request and the legislature did not increase juvenile placement funds to the previous funding level.				

**LFD  
ISSUE (CONT.)**

As part of the deliberations related to juvenile placement funding appropriated to the Department of Corrections, the legislature may wish to consider the purposes of the Juvenile Delinquency Intervention Act (Title 41, Part 20) that established the Youth Court Intervention and Prevention account. The purposes of the act are to:

- o Provide an alternate method of funding juvenile out-of-home placements, programs, and services
- o Increase the ability of youth courts to respond to juvenile delinquency through early intervention and expanded community alternatives
- o Enhance the ability of the youth courts to control costs
- o Enhance community safety, hold youth accountable, and promote the competency development of youth
- o Use local resources for the placement of troubled youth, when appropriate and available
- o Reduce placements in out-of-state residential facilities and programs
- o Use state youth correctional facilities when appropriate

The legislature may also wish to request that the Judicial Branch and Department of Corrections provide a coordinated plan indicating goals and measurable objectives for juvenile placement funds and fund transferred to the state special revenue account, including an estimate of the funding needed to achieve the proposed goals and measurable objectives. The legislature could then determine which goals and objectives it wished to support and provide a level of funding that supports their achievement.

**Elected Official Proposals**

Several proposals included in the Judicial Branch budget request are not included in the executive budget. The branch may request that the following proposals be considered by legislature. The branch has prepared expanded justification for these items and this information will be available to the legislature at the time the proposal is considered.

Drug Court Funding – The branch submitted a budget request that included 5.00 FTE, \$1,064,126 general fund, and \$100,000 state special revenue from drug court participant fees as a biennial appropriation for drug treatment courts.

**LFD  
COMMENT**

Please refer to the Supreme Court Operations program for information regarding goals and objectives related to drug court funding that were monitored during the interim and for discussion of the lack of statutory guidance related to the use of general fund appropriations for drug courts.

Pro Bono Coordinator – Biennial/OTO – The branch submitted a budget request that included 2.00 FTE and \$150,000 general fund for the biennium to support a pro bono coordinator charged with working with the court system, members of the State Bar Association, and other interested parties to develop pro bono services (services provided without charge) throughout the state.

Civil Writ and Motion Law Clerk – The branch submitted a budget request that included 1.00 FTE and \$119,351 general fund for the biennium to support a new position. This clerk would review and summarize all procedural motions and requests for ordinary and extraordinary relief that are filed on a weekly basis, recommend an appropriate disposition of these motions and orders, and prepare draft orders of disposition.

Additional district court judges and staff – The branch is currently evaluating presentation of a proposal to increase the number of district court judges and a corresponding increase in staffing for district courts. As part of the evaluation the branch is visiting with the counties that are potentially affected by this proposal due to statutory requirements that the county provide space for the courts. It is likely that the branch will submit a proposal to the legislature requesting an increase in the number of district court judges. Among the rationale for this request are the findings of a district court workload assessment study completed by the National Center for State Courts dated January 2007.

### Program Budget Comparison

The following table summarizes the total budget requested by the Governor for the agency by year, type of expenditure, and source of funding.

Program Budget Comparison								
Budget Item	Base Fiscal 2008	Approp. Fiscal 2009	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 08-09	Biennium Fiscal 10-11	Biennium Change	Biennium % Change
FTE	63.75	63.75	66.25	66.25	63.75	66.25	2.50	3.92%
Personal Services	4,383,242	4,685,463	4,966,009	4,975,486	9,068,705	9,941,495	872,790	9.62%
Operating Expenses	3,614,446	3,781,015	4,335,812	4,279,603	7,395,461	8,615,415	1,219,954	16.50%
Equipment & Intangible Assets	5,199	9,717	5,199	5,199	14,916	10,398	(4,518)	(30.29%)
Grants	274,469	868,781	274,469	274,469	1,143,250	548,938	(594,312)	(51.98%)
<b>Total Costs</b>	<b>\$8,277,356</b>	<b>\$9,344,976</b>	<b>\$9,581,489</b>	<b>\$9,534,757</b>	<b>\$17,622,332</b>	<b>\$19,116,246</b>	<b>\$1,493,914</b>	<b>8.48%</b>
General Fund	8,044,917	9,105,776	9,307,382	9,260,637	17,150,693	18,568,019	1,417,326	8.26%
State Special	110,042	110,042	148,236	148,236	220,084	296,472	76,388	34.71%
Federal Special	122,397	129,158	125,871	125,884	251,555	251,755	200	0.08%
<b>Total Funds</b>	<b>\$8,277,356</b>	<b>\$9,344,976</b>	<b>\$9,581,489</b>	<b>\$9,534,757</b>	<b>\$17,622,332</b>	<b>\$19,116,246</b>	<b>\$1,493,914</b>	<b>8.48%</b>

### Program Description

The Supreme Court has appellate jurisdiction for the State of Montana. The court has original jurisdiction to issue, hear, and determine writs of habeas corpus and other writs provided by law. It also has general supervisory control over all other courts in the state. The Supreme Court is charged with establishing rules governing appellate procedure, the practice and procedure for all other courts, admission to the bar, and the conduct of its members. Within the Supreme Court Operations program, the Office of Court Administrator provides services to the Judicial Branch including: information technology, budget and finance, payroll and human resource management, policy and technical support for the youth courts, and judicial education. This program also includes functions related to child abuse and neglect cases funded through the federal Court Assessment Program.

### Program Highlights

Supreme Court Operations Major Budget Highlights	
♦	The 2011 biennium budget is 8.5 percent or \$1.5 million general fund greater than the 2009 biennium budget
♦	New proposals, the largest of which is for the Self-help Law Program, add \$0.8 million general fund
♦	Program goals and measurable objectives related to the addition of an appellate mediator are included in the decision package information
Major LFD Issues	
♦	Statute lacks guidance regarding the Self-help Law Program and use of general fund to support Drug Treatment Courts

### Program Narrative

#### Goals and Objectives

State law requires agency and program goals and objectives to be specific and quantifiable to enable the legislature to establish appropriations policy. As part of its appropriations deliberations the Legislative Fiscal Division recommends that the legislature review the following:

- o Goals, objectives and year-to-date outcomes from the 2009 biennium
- o Goals and objectives and their correlation to the 2011 biennium budget request



2009 Biennium Major Goals

The following provides an update on the major goals monitored during the current interim.

Goal 1 – Pro se law clerk – Reduce the amount of time Supreme Court Justices spend in preliminary review of filings from pro se litigants.

- Successes
  - An employee was hired in September 2007 and in one years time conducted preliminary review of all original petitions filed by pro se litigants (60 cases)
  - The amount of time to dispose of original petitions in FY 2008 was reduced to 23 days from 40 days in FY 2007
  - Fewer responses were ordered from the Departments of Justice and Corrections (24 in FY 2008 compared to 51 in FY 2007) lessening impacts on these two agencies

Goal 2 - Self-help law program – Increase access to Montana’s courts for individuals unable to afford an attorney by creating, distributing, and maintaining resources for self-represented litigants.

- Successes
  - As of September 2008 two, self-help law centers had been opened and served 1,882 individuals
  - Several mini-grants were issued for various purposes
  - Forms for use by self-represented litigants have been developed
  - An initial program evaluation was scheduled for completion in November 2008

Goal 3 - Drug Courts – Provide funding to and maintain solvency of drug treatment courts that generally were supported by federal funds.

- Successes
  - A drug court coordinator has been hired and has visited all 12 drug courts in the state
  - A database has been implemented
  - A statewide training conference was held
  - The initial report on drug court performance measures based upon data collected from the statewide data base was scheduled for completion in November 2008
- Challenges
  - Access to treatment is a challenge in some areas of the state

**LFD  
COMMENT**

The legislature may wish to receive updates on the status of these three items and review the reports of initial review and evaluation. The legislature may also wish to review and consider the proposed 2011 biennium goals and performance measures for these programs when making appropriations decisions. Funding for the pro se law clerk and drug courts is included in the base budget for this program and the Self-help Law Program is included as a new proposal in decision package 1006 since the 2009 biennium funding was a one-time-only appropriation. Only \$326,202 of the \$1,345,000 biennial general fund appropriation for drug courts was expended in FY 2008 and is included in the base (or total funding of \$652,404 general fund for the 2011 biennium).

**LFD  
ISSUE**Lack of Statutory Guidance

During the 2007 session bills were introduced to establish and fund a self- help law program and to provide general fund support for drug treatment courts. However, these bills did not become law. Rather, funding and language related to the use of that funding was incorporated into the appropriations act. Because the appropriations act is a temporary statute, language governing the use of these funds and programs ceases to exist at the end of the 2009 biennium. The legislature may wish to pursue legislation to establish and provide guidance for the Self-help Law Program, use of general fund support for drug treatment courts, and collection of data that can be used in determining program accomplishments and performance measurement. In the absence of such legislation, legislative staff recommends that language related to these appropriations and programs be included in the appropriations act. Prior language contained provisions such as:

- Limiting the use of general fund support for drug treatment courts to:
  - Providing grants to drug treatment courts
  - Up to one full-time administrator
  - Ongoing review of the operations of drug treatment courts
  - Development of policies necessary to administer the provision of grants to drug treatment courts
- Limiting the use of funds for the Self-Help Law Program to:
  - Provision and support the development, maintenance, and availability of self-help legal forms and instructions regarding civil legal proceedings in Montana's courts
  - Development of curriculum and materials suitable for classes and clinics about civil legal proceedings and forms
  - Development, updating, and provision of information and training materials for judges, clerks of court, other court officers, judicial branch employees, and volunteers about self-help legal resources and how to assist self-represented litigants in a manner that is impartial, facilitates effective and efficient court operations, and does not constitute providing direct legal representation
  - Establishment and maintenance of multimedia materials that provide information about Montana's civil laws, courts, rules, legal forms, and available legal resources
  - Coordination, recruitment, and training of volunteer attorneys to provide legal advice and direct legal representation to persons with civil legal needs who are unable to pay for those services
  - Coordination and cooperation with other access to justice efforts

The legislature may wish to:

- Request a committee bill establishing, providing guidance for, and requiring development of and reporting regarding measurable benchmarks and outcomes for the Self-help Law Program
- Request a committee bill providing guidance regarding the use of general fund appropriated for drug courts, collection of data, and measurement of program outcomes
- Consider and adopt a motion and language for inclusion in the appropriations act that provides guidance on the use of funds appropriated for these two purposes

2011 Biennium Major Goals

Please refer to the expanded justification information for decision package 1001 appellate mediator for an example of this program's goals and measurable objectives.

## Funding

The following table shows program funding, by source, for the base year and for the 2011 biennium as recommended by the approving authority.

Program Funding Table Supreme Court Operations						
Program Funding	Base FY 2008	% of Base FY 2008	Budget FY 2010	% of Budget FY 2010	Budget FY 2011	% of Budget FY 2011
01000 Total General Fund	\$ 8,044,917	97.2%	\$ 9,307,382	97.1%	\$ 9,260,637	97.1%
01100 General Fund	8,044,917	97.2%	9,307,382	97.1%	9,260,637	97.1%
02000 Total State Special Funds	110,042	1.3%	148,236	1.5%	148,236	1.6%
02141 District Court Crim. Reimb.	-	-	-	-	-	-
02536 Legal Assistance	110,042	1.3%	148,236	1.5%	148,236	1.6%
02919 Csed Registry - Dphhs	-	-	-	-	-	-
02961 State Grants To Drug Courts	-	-	-	-	-	-
03000 Total Federal Special Funds	122,397	1.5%	125,871	1.3%	125,884	1.3%
03035 Clerk Of Sc Mgt Info System	-	-	-	-	-	-
03083 Judicial Education Grant	-	-	-	-	-	-
03136 State Justice Institute Grant	-	-	-	-	-	-
03153 Court Improvement Prg Grants	-	-	-	-	-	-
03240 Court Assessment Program	122,397	1.5%	125,871	1.3%	125,884	1.3%
03352 Protection Order Enhance Grant	-	-	-	-	-	-
Grand Total	\$ 8,277,356	100.0%	\$ 9,581,489	100.0%	\$ 9,534,757	100.0%

Supreme Court operations are funded primarily with general fund. State special revenue from a portion of the dissolution of marriage fees is utilized to provide civil legal services for indigent victims of domestic violence (3-2-714, MCA). The program is also projected to receive about \$125,000 per year in federal grant funds during the 2011 biennium.

## Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Summary by Category								
	-----General Fund-----				-----Total Funds-----			
Budget Item	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget
Base Budget	8,044,917	8,044,917	16,089,834	86.65%	8,277,356	8,277,356	16,554,712	86.60%
Statewide PL Adjustments	846,061	804,633	1,650,694	8.89%	849,535	808,120	1,657,655	8.67%
Other PL Adjustments	26,135	28,526	54,661	0.29%	64,329	66,720	131,049	0.69%
New Proposals	390,269	382,561	772,830	4.16%	390,269	382,561	772,830	4.04%
<b>Total Budget</b>	<b>\$9,307,382</b>	<b>\$9,260,637</b>	<b>\$18,568,019</b>		<b>\$9,581,489</b>	<b>\$9,534,757</b>	<b>\$19,116,246</b>	

## Present Law Adjustments

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget proposed by the Governor. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments										
-----Fiscal 2010-----						-----Fiscal 2011-----				
Program	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services					426,528					435,962
Inflation/Deflation					10,065					12,149
Fixed Costs					412,942					360,009
<b>Total Statewide Present Law Adjustments</b>					<b>\$849,535</b>					<b>\$808,120</b>
DP 1005 - Indigent Victims of Domestic Violence										
0.00 0			38,194	0	38,194	0.00	0	38,194	0	38,194
DP 1008 - Rent Park Avenue Building										
0.00 4,631			0	0	4,631	0.00	7,022	0	0	7,022
DP 1010 - ITSD Fixed Cost PL Adjustment										
0.00 21,504			0	0	21,504	0.00	21,504	0	0	21,504
<b>Total Other Present Law Adjustments</b>										
0.00 \$26,135			\$38,194	\$0	\$64,329	0.00	\$28,526	\$38,194	\$0	\$66,720
<b>Grand Total All Present Law Adjustments</b>					<b>\$913,864</b>					<b>\$874,840</b>

### Program Personal Services Narrative

Please refer to the agency narrative for a discussion of the Judicial Branch pay plan and personal service costs.

DP 1005 - Indigent Victims of Domestic Violence - This proposal requests \$76,388 state special revenue for the biennium from the Civil Legal Assistance for Indigent Victims of Domestic Violence account established in 3-2-714, MCA. Funds in this account are used for the provision of legal representation to indigent domestic violence victims.

DP 1008 - Rent Park Avenue Building - This decision package requests \$11,653 general fund for the biennium to cover the increase in lease payments for space rented at the old federal building in Helena. This increase is provided for in the lease agreement.

DP 1010 - ITSD Fixed Cost PL Adjustment - The executive requests \$43,008 general fund for the biennium to fund the branch's portion of the Information Technology Services Division, Department of Administration, fixed cost allocation that falls outside the adjusted base.

### New Proposals

New Proposals										
-----Fiscal 2010-----						-----Fiscal 2011-----				
Program	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
DP 1001 - Appellate Mediator										
01 1.50		123,782	0	0	123,782	1.50	117,934	0	0	117,934
DP 1006 - Self-Help Law - Restricted/Biennial										
01 1.00		252,500	0	0	252,500	1.00	252,500	0	0	252,500
DP 6101 - Fixed Cost Work Comp Mgmt Prog Alloc										
01 0.00		13,987	0	0	13,987	0.00	12,127	0	0	12,127
<b>Total</b>	<b>2.50</b>	<b>\$390,269</b>	<b>\$0</b>	<b>\$0</b>	<b>\$390,269</b>	<b>2.50</b>	<b>\$382,561</b>	<b>\$0</b>	<b>\$0</b>	<b>\$382,561</b>

DP 1001 - Appellate Mediator - This proposal requests 1.50 FTE and \$241,716 general fund for the biennium for an appellate mediator and part-time support staff.

The following information is provided so that the legislature can consider various performance measurement principles when examining this proposal. It is submitted by the agency, with editing by LFD staff as necessary for brevity and/or clarity.

Justification: Montana is one of nine states that do not have an intermediate appellate court. Thus, the Supreme Court must dispose of all appeals from the District Courts as well as disposing of original proceedings, which results in a heavy and complex caseload. Each Supreme Court justice produces an average of over 50 written opinions per year, well in excess of the national average for an appellate court. Additionally, the Court is responsible for revising rules, imposing attorney discipline, overseeing Judicial Branch boards and commissions, and providing public outreach.

The purpose of this proposal is to help reduce the Supreme Court's overall workload by improving the appellate mediation success rate through employment of a full-time mediator and part-time support staff. Data from mandatory mediation programs in other states indicate that employment of a full-time mediator would significantly improve the mediation settlement rate. Increasing the number of cases settled through mediation would result in fewer cases needing to be disposed of by the court and allow the justices more time to devote to remaining cases. Additionally, litigants involved in successful mediation may receive quicker resolution of their cases at a lower cost.

Goals: The goal of the proposal is to improve the appellate mediation success rate for selected cases filed in the Supreme Court.

Performance Criteria: Progress will be measured by the number of cases successfully mediated.

**Milestones:**

- Hire 1.0 FTE mediator - September 2009
- Design program based on best practices, hire 0.5 FTE support staff, and rewrite appellate rules governing mediation in conjunction with Supreme Court - March 2010
- Begin mandatory mediation program as defined by rules - April 2010
- Collect and analyze program data, evaluate program, and modify as needed - June 2011

FTE: 1.00 FTE appellate mediator and 0.50 FTE support position

Funding. \$241,716 general fund. Parties involved in mediation would be charged a fee, which would be deposited into the general fund, thereby offsetting a portion of the cost of this proposal

Obstacles: Challenges to implementing this proposal include hiring and retaining qualified staff.

Risk: Without additional resources such as the appellate mediator, it is unlikely that the Supreme Court will be able to make progress in handling its heavy and complex caseload in an expeditious manner.

**LFD  
COMMENT**

The branch has provided a goal related to this request and information regarding how progress toward or achievement of the goal may be measured.

DP 1006 - Self-Help Law - Restricted/Biennial - This proposal requests 1.00 FTE and \$505,000 general fund for the biennium for a self-help law program. The self-help law program was created and funded by the 2007 Legislature as one-time-only appropriation. This program provides a variety of services (excluding legal advice) to litigants representing themselves in civil court matters.

**LFD  
COMMENT**

Of the \$505,000 biennial appropriation (\$252,500 a year) for the 2009 biennium, \$171,354 was expended in FY 2008. Please refer to the section of the program discussion above titled 2009 Biennium Major Goals for more information on the goals and measurable objectives of this project that were monitored during the interim.

**LFD  
ISSUE****Lack of Statutory Guidance**

Please refer to the LFD issue under the program discussion for information regarding the lack of statute providing for or guiding the operations of the Self-help Law Program.

DP 6101 - Fixed Cost Work Comp Mgmt Prog Alloc - The Workers' Compensation Management program at the Department of Administration was funded by the 2007 Legislature with a one-time-only general fund appropriation. For the 2011 biennium and beyond, the executive proposes the program be funded via a fixed cost allocation. The allocation is based upon the average number of payroll warrants issued per pay period. Because the program was approved as an OTO for the current biennium, it must be presented as a new proposal for the next biennium. Therefore, the allocation cannot be included as part of the standard present law fixed cost process.

### Program Budget Comparison

The following table summarizes the total budget requested by the Governor for the agency by year, type of expenditure, and source of funding.

Program Budget Comparison								
Budget Item	Base Fiscal 2008	Approp. Fiscal 2009	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 08-09	Biennium Fiscal 10-11	Biennium Change	Biennium % Change
FTE	3.00	3.00	3.00	3.00	3.00	3.00	0.00	0.00%
Personal Services	171,168	180,903	189,369	190,315	352,071	379,684	27,613	7.84%
Operating Expenses	112,125	135,818	181,530	158,872	247,943	340,402	92,459	37.29%
<b>Total Costs</b>	<b>\$283,293</b>	<b>\$316,721</b>	<b>\$370,899</b>	<b>\$349,187</b>	<b>\$600,014</b>	<b>\$720,086</b>	<b>\$120,072</b>	<b>20.01%</b>
General Fund	258,287	291,715	299,661	277,938	550,002	577,599	27,597	5.02%
State Special	25,006	25,006	71,238	71,249	50,012	142,487	92,475	184.91%
<b>Total Funds</b>	<b>\$283,293</b>	<b>\$316,721</b>	<b>\$370,899</b>	<b>\$349,187</b>	<b>\$600,014</b>	<b>\$720,086</b>	<b>\$120,072</b>	<b>20.01%</b>

### Program Description

The Boards and Commissions Program provides staff and other support to constitutionally and statutorily required commissions attached to the Montana Supreme Court, specifically the Judicial Standards Commission, the Sentence Review Board, and the Commission on Courts of Limited Jurisdiction. The program also supports activities of the Commission on Practice. Other specialized commissions and task forces, not required by the constitution and statute but created by the Supreme Court to address specific issues, receive minimal financial assistance with travel expenses and supplies.

### Program Highlights

Boards and Commissions Major Budget Highlights	
<ul style="list-style-type: none"> <li>◆ The 2011 biennium budget is 20 percent or \$120,255 greater than the 2009 biennium budget</li> <li>◆ The bulk of the increase (\$92,475) is in state special revenue, most of which supports training for judges</li> <li>◆ The goal included in this analysis is an ongoing goal from information provided for the 2009 biennium budget</li> </ul>	
Major LFD Issues	
<ul style="list-style-type: none"> <li>◆ The legislature may wish to request additional information about how the branch measures to ensure that training for judges in courts of limited jurisdiction is comprehensive, up-to-date, and meeting the needs of these judges</li> </ul>	

### Program Narrative

#### Goals and Objectives

State law requires agency and program goals and objectives to be specific and quantifiable to enable the legislature to establish appropriations policy. As part of its appropriations deliberations the Legislative Fiscal Division recommends that the legislature review the following:

- o Goals, objectives and year-to-date outcomes from the 2009 biennium
- o Goals and objectives and their correlation to the 2011 biennium budget request

2009 Biennium Major Goals

No goals related to this program were reviewed during the interim.

2011 Biennium Major Goals

Goal 1 - Provide for comprehensive and up to date training for judges in the courts of limited jurisdiction. Ensure that the training meets the needs of both law-trained and lay judges.

o Objectives

- Complete certification process for limited jurisdiction judges every four years
- Sponsor two annual training sessions for limited jurisdiction judges
- Provide on-line tutorials and education for limited jurisdiction judges – July, 2007

**LFD  
ISSUE**
**Objectives Lack Measurement**

Goals and objectives should be specific, measurable, achievable, relevant and time-based (SMART). It is unclear how the objectives for this goal can measure that the training is comprehensive, up-to-date, and whether or not it meets the needs of both law-trained and lay judges. The legislature may wish to request that more information be provided regarding measurement of achievement of comprehensive, up-to-date training that meets the needs of limited jurisdiction court judges.

**Funding**

The following table shows program funding, by source, for the base year and for the 2011 biennium as recommended by the approving authority.

Program Funding Table Boards And Commissions							
Program Funding		Base FY 2008	% of Base FY 2008	Budget FY 2010	% of Budget FY 2010	Budget FY 2011	% of Budget FY 2011
01000	Total General Fund	\$ 258,287	91.2%	\$ 299,661	80.8%	\$ 277,938	79.6%
	01100 General Fund	258,287	91.2%	299,661	80.8%	277,938	79.6%
02000	Total State Special Funds	25,006	8.8%	71,238	19.2%	71,249	20.4%
	02399 Boards And Commissions - Mji	25,006	8.8%	71,238	19.2%	71,249	20.4%
Grand	Total	\$ 283,293	100.0%	\$ 370,899	100.0%	\$ 349,187	100.0%

The Boards and Commissions Program receives 79.6 percent of its funding from the general fund. The remaining 20.4 percent of the program's funding is state special revenue from fees charged for attendance at training events.

**Budget Summary by Category**

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Summary by Category								
Budget Item	-----General Fund-----				-----Total Funds-----			
	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget
Base Budget	258,287	258,287	516,574	89.43%	283,293	283,293	566,586	78.68%
Statewide PL Adjustments	18,612	19,651	38,263	6.62%	18,850	19,900	38,750	5.38%
Other PL Adjustments	22,762	0	22,762	3.94%	68,756	45,994	114,750	15.94%
New Proposals	0	0	0	0.00%	0	0	0	0.00%
<b>Total Budget</b>	<b>\$299,661</b>	<b>\$277,938</b>	<b>\$577,599</b>		<b>\$370,899</b>	<b>\$349,187</b>	<b>\$720,086</b>	



### Present Law Adjustments

The “Present Law Adjustments” table shows the primary changes to the adjusted base budget proposed by the Governor. “Statewide Present Law” adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments									
-----Fiscal 2010-----					-----Fiscal 2011-----				
FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services				18,201					19,147
Inflation/Deflation				411					504
Fixed Costs				238					249
<b>Total Statewide Present Law Adjustments</b>				<b>\$18,850</b>					<b>\$19,900</b>
DP 2001 - Judicial Standards Restricted/Biennial									
0.00	22,762	0	0	22,762	0.00	0	0	0	0
DP 2002 - State Spec Spending Authority for Judges Training									
0.00	0	45,994	0	45,994	0.00	0	45,994	0	45,994
<b>Total Other Present Law Adjustments</b>									
<b>0.00</b>	<b>\$22,762</b>	<b>\$45,994</b>	<b>\$0</b>	<b>\$68,756</b>	<b>0.00</b>	<b>\$0</b>	<b>\$45,994</b>	<b>\$0</b>	<b>\$45,994</b>
<b>Grand Total All Present Law Adjustments</b>				<b>\$87,606</b>					<b>\$65,894</b>

### Program Personal Services Narrative

Please refer to the agency narrative for a discussion of the Judicial Branch pay plan and personal service costs.

DP 2001 - Judicial Standards Restricted/Biennial - This proposal requests \$22,762 general fund for the biennium in a restricted biennial appropriation for the Judicial Standards Commission. For the past two biennia the legislature has provided the Judicial Branch a \$25,000 restricted, biennial, general fund appropriation that is used to pay for the investigation of complaints against judges. This request would restore the appropriation to \$25,000 for the 2011 biennium.

DP 2002 - State Spec Spending Authority for Judges Training - This proposal requests \$91,988 state special revenue for the biennium to support training for judges in the courts of limited jurisdiction. The revenue source for this fund is registration fees paid for the training events. The Supreme Court is statutorily required to provide training twice a year to the judges in the courts of limited jurisdiction and also provides training once a year to clerks in the courts of limited jurisdiction.

### Program Budget Comparison

The following table summarizes the total budget requested by the Governor for the agency by year, type of expenditure, and source of funding.

Program Budget Comparison								
Budget Item	Base Fiscal 2008	Approp. Fiscal 2009	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 08-09	Biennium Fiscal 10-11	Biennium Change	Biennium % Change
FTE	6.75	6.75	6.75	6.75	6.75	6.75	0.00	0.00%
Personal Services	350,139	383,186	392,611	393,883	733,325	786,494	53,169	7.25%
Operating Expenses	427,284	150,927	429,451	430,711	578,211	860,162	281,951	48.76%
Equipment & Intangible Assets	55,550	339,809	64,194	69,326	395,359	133,520	(261,839)	(66.23%)
Debt Service	22,854	23,369	22,854	22,854	46,223	45,708	(515)	(1.11%)
<b>Total Costs</b>	<b>\$855,827</b>	<b>\$897,291</b>	<b>\$909,110</b>	<b>\$916,774</b>	<b>\$1,753,118</b>	<b>\$1,825,884</b>	<b>\$72,766</b>	<b>4.15%</b>
General Fund	855,827	897,291	909,110	916,774	1,753,118	1,825,884	72,766	4.15%
State Special	0	0	0	0	0	0	0	n/a
<b>Total Funds</b>	<b>\$855,827</b>	<b>\$897,291</b>	<b>\$909,110</b>	<b>\$916,774</b>	<b>\$1,753,118</b>	<b>\$1,825,884</b>	<b>\$72,766</b>	<b>4.15%</b>

### Program Description

The State Law Library of Montana (MCA 22-1-501 et seq) provides access to legal information consistent with the present and anticipated needs, responsibilities, and concerns of Montana's courts, legislature, state officers and employees, members of the bar of the Supreme Court of Montana, and members of the general public. The library selects, acquires, and maintains resources consistent with this mission. The acquisition of more electronic licenses (which frequently replace the hard copies) allows the library get information to the customer more quickly and to conserve its available shelf space for books and other printed material.

Library staff also provides training in legal research methods and Montana law. The library's web site has been designed to help Montana's citizens find the appropriate statutes, court cases, legal forms and explanation of the laws they need. The library endeavors to maintain its space, equipment, and technology in a manner that will ensure operational efficiency, improve collection preservation, and respond to requirements for accessibility of users and staff.

### Program Highlights

Law Library Major Budget Highlights	
◆	2011 biennium funding is about 4.2 percent or \$72,766 greater than 2009 biennium funding
◆	Statewide present law adjustments comprise the entire increase between the two biennia
◆	The program goals are relevant to the program and are measurable

### Program Narrative

#### Goals and Objectives

State law requires agency and program goals and objectives to be specific and quantifiable to enable the legislature to establish appropriations policy. As part of its appropriations deliberations the Legislative Fiscal Division recommends that the legislature review the following:

- o Goals, objectives and year-to-date outcomes from the 2009 biennium
- o Goals and objectives and their correlation to the 2011 biennium budget request

2009 Biennium Major Goals

No goals related to this program were reviewed during the interim.

2011 Biennium Major Goals

The following provides an overview of major goals for the 2011 interim.

Goal 1 - Select, acquire, maintain, and provide access to legal resources consistent with the law library's mission statement and collection development policy.

o Objectives:

- Review advertisements, consider customer requests, read book and electronic product reviews, and monitor acquisitions lists on continuing and regular basis – weekly
- Purchase in any economical and user-friendly medium. Provide access to digital information in lieu of hard copy whenever possible – monitor statistics for electronic resources and hard copy updates using the Statewide Budgeting Accounting and Human Resources System (SABHRS)
- Check in and verify new materials within two working days
- Catalog new materials and online resources within one week of receipt or awareness of source
- Reshelve materials daily
- Position new titles in a prominent place in the library
- Enforce policies and sanctions for overdue and unreturned materials. Overdue and payment due statements sent out weekly, prompted by Law Library's online system

**LFD  
COMMENT**

Goals and objectives should be specific, measurable, achievable, relevant, and time-based (SMART). In general, the goal and objectives above meet these criteria. However, the objective to position new titles in a prominent place in the library does not indicate how often this will be monitored or what qualifies as a "prominent" place.

**Funding**

The following table shows program funding, by source, for the base year and for the 2011 biennium as recommended by the approving authority.

Program Funding Table						
Law Library						
Program Funding	Base FY 2008	% of Base FY 2008	Budget FY 2010	% of Budget FY 2010	Budget FY 2011	% of Budget FY 2011
01000 Total General Fund	\$ 855,827	100.0%	\$ 909,110	100.0%	\$ 916,774	100.0%
01100 General Fund	855,827	100.0%	909,110	100.0%	916,774	100.0%
Grand Total	<u>\$ 855,827</u>	<u>100.0%</u>	<u>\$ 909,110</u>	<u>100.0%</u>	<u>\$ 916,774</u>	<u>100.0%</u>

The law library is funded entirely with general fund. The library is also responsible for one proprietary fund.

**Budget Summary by Category**

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Summary by Category								
Budget Item	-----General Fund-----				-----Total Funds-----			
	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget
Base Budget	855,827	855,827	1,711,654	93.74%	855,827	855,827	1,711,654	93.74%
Statewide PL Adjustments	53,283	60,947	114,230	6.26%	53,283	60,947	114,230	6.26%
Other PL Adjustments	0	0	0	0.00%	0	0	0	0.00%
New Proposals	0	0	0	0.00%	0	0	0	0.00%
<b>Total Budget</b>	<b>\$909,110</b>	<b>\$916,774</b>	<b>\$1,825,884</b>		<b>\$909,110</b>	<b>\$916,774</b>	<b>\$1,825,884</b>	

### Present Law Adjustments

The “Present Law Adjustments” table shows the primary changes to the adjusted base budget proposed by the Governor. “Statewide Present Law” adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments											
-----Fiscal 2010-----					-----Fiscal 2011-----						
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds	
Personal Services					42,472					43,744	
Inflation/Deflation					2,167					3,427	
Inflation/Deflation					8,644					13,776	
Total Statewide Present Law Adjustments					\$53,283						\$60,947
Grand Total All Present Law Adjustments					\$53,283						\$60,947

### Program Personal Services Narrative

Please refer to the agency narrative for a discussion of the Judicial Branch pay plan and personal service costs.

### Proprietary Program Description

Law Library Searches/Research Enterprise Fund - The law library is billed by the on-line provider for the air time, and the law library in turn bills the requesting entity for the cost of the search performed.

### Program Proposed Budget

The following table summarizes the total budget proposal for this program by year.

Law Library On-line Searches					
Item	Base Budget	FY 2010 Adjustments	FY 2010 Total	FY 2011 Adjustments	FY 2011 Total
FTE	0.00	0.00	0.00	0.00	0.00
62000 Operating Expenses	\$104,489	\$253	\$104,742	\$303	\$104,792

### Program Description

The Law Library conducts searches of legal resources (Lexus) at the request of individuals. The library is billed by the on-line provider for the air time used and in turn bills the requesting entity for the costs of the search.

### Funding

The Law Library Searches/Research Fund is funded entirely as an enterprise fund with users paying for the services received (on-line search).

The following table shows the estimated funding sources for payments made by users of the Law Library Searches/Research for the base year and the 2009 biennium.

Estimated Funding For Payment to the Law Library On-line Searches			
Payment Funding	Base	FY 2010	FY 2011
All Other Funds	\$104,898	\$105,000	\$105,000

### Program Narrative

Revenues for this function come from the individuals and companies that use the service.

Expenditures are driven by the number of requests for searches. Payment is made to a contractor for the purchase of services on behalf of individuals and companies that request searches. These fees are then billed to the requestor of the informational search.

2011 Biennium Report on Internal Service and Enterprise Funds 6019 - Law Library Searches/Research				
	Actual FY08	Budgeted FY09	Budgeted FY10	Budgeted FY11
Beginning Working Capital Balance	\$4,715	\$5,124	\$0	\$258
Operating Expenses:				
Pass Through Expense	104,489	118,676	104,742	104,792
Operating Revenues:				
Agency Fee Revenue	<u>104,898</u>	<u>113,552</u>	<u>105,000</u>	<u>105,000</u>
Operating Gain (Loss)	\$409	(\$5,124)	\$258	\$208
Ending Working Capital Balance	<u>\$5,124</u>	<u>\$0</u>	<u>\$258</u>	<u>\$466</u>

**Present Law Adjustments**

None

**New Proposals**

None

**Proprietary Rates**

The rate charged to the user is the actual cost of the search performed.

### Program Budget Comparison

The following table summarizes the total budget requested by the Governor for the agency by year, type of expenditure, and source of funding.

Program Budget Comparison								
Budget Item	Base Fiscal 2008	Approp. Fiscal 2009	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 08-09	Biennium Fiscal 10-11	Biennium Change	Biennium % Change
FTE	300.08	300.08	304.08	304.08	300.08	304.08	4.00	1.33%
Personal Services	19,430,613	20,957,493	21,348,240	21,298,723	40,388,106	42,646,963	2,258,857	5.59%
Operating Expenses	3,377,771	4,070,608	3,518,289	3,546,898	7,448,379	7,065,187	(383,192)	(5.14%)
Equipment & Intangible Assets	30,577	23,562	30,577	30,577	54,139	61,154	7,015	12.96%
Grants	0	0	0	0	0	0	0	n/a
Benefits & Claims	0	0	0	0	0	0	0	n/a
Debt Service	3,750	5,900	3,750	3,750	9,650	7,500	(2,150)	(22.28%)
<b>Total Costs</b>	<b>\$22,842,711</b>	<b>\$25,057,563</b>	<b>\$24,900,856</b>	<b>\$24,879,948</b>	<b>\$47,900,274</b>	<b>\$49,780,804</b>	<b>\$1,880,530</b>	<b>3.93%</b>
General Fund	22,590,955	24,804,116	24,518,561	24,473,133	47,395,071	48,991,694	1,596,623	3.37%
State Special	251,756	253,447	382,295	406,815	505,203	789,110	283,907	56.20%
Federal Special	0	0	0	0	0	0	0	n/a
<b>Total Funds</b>	<b>\$22,842,711</b>	<b>\$25,057,563</b>	<b>\$24,900,856</b>	<b>\$24,879,948</b>	<b>\$47,900,274</b>	<b>\$49,780,804</b>	<b>\$1,880,530</b>	<b>3.93%</b>

### Program Description

The District Courts have original jurisdiction in all felony criminal cases, most civil matters and other cases in law and in equity. These courts may issue all writs appropriate to their jurisdiction and hear appeals from courts of limited jurisdiction pursuant to statutory parameters. The district courts are also the state's youth courts, responsible for managing juvenile probation functions. There are 43 district court judges in 22 judicial districts serving all 56 counties. The 2001 Legislature mandated state funding of district court expenses, including salaries and operating expenses for judges and their employees. District court costs are the largest segment of the Judicial Branch budget.

### Program Highlights

District Court Operations Major Budget Highlights	
◆	The 2011 biennium budget is 4 percent or \$1.9 million greater than the 2009 biennium budget
◆	General fund support for the program increases 3.4 percent or \$1.6 million between the two biennia primarily due to statewide present law adjustments
◆	The 2011 biennium budget request includes 4.00 FTE to increase four judicial districts' staffing to minimum levels established by branch policy
◆	The branch provided program goals and objectives related to increasing the number of district court judges

### Program Narrative

#### Goals and Objectives

State law requires agency and program goals and objectives to be specific and quantifiable to enable the legislature to establish appropriations policy. As part of its appropriations deliberations the Legislative Fiscal Division recommends that the legislature review the following:

- o Goals, objectives and year-to-date outcomes from the 2009 biennium
- o Goals and objectives and their correlation to the 2011 biennium budget request

2009 Biennium Major Goals

No goals related to this program were reviewed during the interim.

2011 Biennium Major Goals

The following provides an overview of major goals for the 2011 interim. The following information is adapted from the branch expanded justification submission related to the increase in the number of district court judges.

Goal 1 - Provide an adequate number of judges and judicial staff to the five judicial districts with the greatest need for resources as demonstrated through the Judicial Branch's workload assessment study. It is anticipated that the "judicial need" factor in the five judicial districts will decrease with the addition of the judges.

o Objectives:

- New judges will be appointed in the 1st, 8th, 11th, 13th and 18th Judicial Districts effective July 2009. Judicial staff will be hired shortly thereafter
- An additional judge will be appointed and start serving in the 13th Judicial District on July 1, 2010. Judicial staff will be hired shortly thereafter
- A standing master will be added in the 1st and 11th Judicial Districts effective July 2010
- The workload matrix will be updated in 2009 and 2010 and will be used to analyze the ongoing need for additional judicial resources.

**LFD  
COMMENT**

The goals and objectives provide the reader an understanding of what the branch seeks to achieve, the time frame in which they seek to achieve the goal, and when and how the branch will measure and evaluate progress toward the goal.

**Funding**

The following table shows program funding, by source, for the base year and for the 2011 biennium as recommended by the approving authority.

Program Funding Table District Court Operations						
Program Funding	Base FY 2008	% of Base FY 2008	Budget FY 2010	% of Budget FY 2010	Budget FY 2011	% of Budget FY 2011
01000 Total General Fund	\$ 22,590,955	98.9%	\$ 24,518,561	98.5%	\$ 24,473,133	98.4%
01100 General Fund	22,590,955	98.9%	24,518,561	98.5%	24,473,133	98.4%
02000 Total State Special Funds	251,756	1.1%	382,295	1.5%	406,815	1.6%
02141 District Court Crim. Reimb.	202,290	0.9%	278,456	1.1%	302,952	1.2%
02788 Acc. Cty Sick/Vacation Leave	49,466	0.2%	103,839	0.4%	103,863	0.4%
Grand Total	<u>\$ 22,842,711</u>	<u>100.0%</u>	<u>\$ 24,900,856</u>	<u>100.0%</u>	<u>\$ 24,879,948</u>	<u>100.0%</u>

District court operations are funded almost entirely with general fund. The program also receives a small amount of state special revenue from video conferencing fees, youth court fines and fees, and accrued leave benefits that were paid to the state at the time of district court assumption.



### Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Summary by Category								
Budget Item	-----General Fund-----				-----Total Funds-----			
	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget
Base Budget	22,590,955	22,590,955	45,181,910	92.22%	22,842,711	22,842,711	45,685,422	91.77%
Statewide PL Adjustments	1,656,625	1,702,426	3,359,051	6.86%	1,657,661	1,703,582	3,361,243	6.75%
Other PL Adjustments	80,878	0	80,878	0.17%	210,381	153,903	364,284	0.73%
New Proposals	190,103	179,752	369,855	0.75%	190,103	179,752	369,855	0.74%
<b>Total Budget</b>	<b>\$24,518,561</b>	<b>\$24,473,133</b>	<b>\$48,991,694</b>		<b>\$24,900,856</b>	<b>\$24,879,948</b>	<b>\$49,780,804</b>	

### Present Law Adjustments

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget proposed by the Governor. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments										
	-----Fiscal 2010-----					-----Fiscal 2011-----				
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services					1,614,963					1,646,275
Inflation/Deflation					42,505					56,994
Fixed Costs					193					313
<b>Total Statewide Present Law Adjustments</b>					<b>\$1,657,661</b>					<b>\$1,703,582</b>
DP 4003 - Youth Probation Fees Spending Authority Increase										
	0.00	0	75,600	0	75,600	0.00	0	100,000	0	100,000
DP 4004 - State Special Authority for Accrued Leave Payouts										
	0.00	0	53,903	0	53,903	0.00	0	53,903	0	53,903
DP 4005 - Call in Retired Judges (Restricted/Biennial)										
	0.00	80,878	0	0	80,878	0.00	0	0	0	0
<b>Total Other Present Law Adjustments</b>	<b>0.00</b>	<b>\$80,878</b>	<b>\$129,503</b>	<b>\$0</b>	<b>\$210,381</b>	<b>0.00</b>	<b>\$0</b>	<b>\$153,903</b>	<b>\$0</b>	<b>\$153,903</b>
<b>Grand Total All Present Law Adjustments</b>					<b>\$1,868,042</b>					<b>\$1,857,485</b>

### Program Personal Services Narrative

Please refer to the agency narrative for a discussion of the Judicial Branch pay plan and personal service costs.

DP 4003 - Youth Probation Fees Spending Authority Increase - This proposal requests \$175,600 state special revenue for the biennium from fees collected from youth on probation. These fees are used to pay for a variety of services, including drug testing, restitution collection, community service supervision, and workers' compensation coverage for community service, other programming for youth (shoplifting classes, minor in possession classes, etc.), and staff training.

DP 4004 - State Special Authority for Accrued Leave Payouts - This proposal requests \$107,806 state special revenue for the biennium to fund projected retirement payouts for employees who became state employees at the time of district court assumption. When an employee, who was a county employee at the time of district court assumption, retires his or her accrued sick and annual leave is paid from this state special revenue fund.

DP 4005 - Call in Retired Judges (Restricted/Biennial) - This proposal requests \$80,878 general fund as a restricted, biennial appropriation for the payment of salaries to retired district court judges and Supreme Court justices who are called to active duty as provided for in Article 7, Section 6 of the Montana Constitution and 19-5-103, MCA. The

branch would use this funding if the Chief Justice determined that it was necessary to call into duty a retired judge or justice to aid and assist a district court because of the inability of a judge to conduct the court's business due to extended illness or other circumstances. The funding is equivalent to a 0.75 FTE district court judge.

### New Proposals

New Proposals										
-----Fiscal 2010-----						-----Fiscal 2011-----				
Program	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
DP 4001 - Minimum Staffing for District Court Judges										
04	4.00	190,103	0	0	190,103	4.00	179,752	0	0	179,752
<b>Total</b>	<b>4.00</b>	<b>\$190,103</b>	<b>\$0</b>	<b>\$0</b>	<b>\$190,103</b>	<b>4.00</b>	<b>\$179,752</b>	<b>\$0</b>	<b>\$0</b>	<b>\$179,752</b>

DP 4001 - Minimum Staffing for District Court Judges - This proposal requests \$369,855 general fund for the biennium for 4.00 FTE. Currently, 11 judicial districts in the state do not have the minimum level of staffing defined by the branch as one judicial assistant, one law clerk, and one court reporter per judge. Support staff do scheduling, research and administrative tasks on behalf of judges.

This request includes 1.00 FTE law clerk for each of the following judicial districts:

- Judicial District 3 (Deer Lodge/Powell/Granite Counties)
- Judicial District 7 (Dawson/Richland/McCone/Prairie/Wibaux Counties). This clerk would be shared by two judges
- Judicial District 17 (Blaine/Phillips/Valley Counties)

The request also includes 1.00 FTE judicial assistant in Judicial District 15 (Daniels/Roosevelt/Sheridan Counties).

### Program Budget Comparison

The following table summarizes the total budget requested by the Governor for the agency by year, type of expenditure, and source of funding.

Program Budget Comparison								
Budget Item	Base Fiscal 2008	Approp. Fiscal 2009	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 08-09	Biennium Fiscal 10-11	Biennium Change	Biennium % Change
FTE	18.00	18.00	18.00	18.00	18.00	18.00	0.00	0.00%
Personal Services	1,148,317	1,248,453	1,340,803	1,346,019	2,396,770	2,686,822	290,052	12.10%
Operating Expenses	225,131	239,167	249,549	253,136	464,298	502,685	38,387	8.27%
Equipment & Intangible Assets	13,561	23,965	13,561	13,561	37,526	27,122	(10,404)	(27.72%)
<b>Total Costs</b>	<b>\$1,387,009</b>	<b>\$1,511,585</b>	<b>\$1,603,913</b>	<b>\$1,612,716</b>	<b>\$2,898,594</b>	<b>\$3,216,629</b>	<b>\$318,035</b>	<b>10.97%</b>
State Special	1,387,009	1,511,585	1,603,913	1,612,716	2,898,594	3,216,629	318,035	10.97%
<b>Total Funds</b>	<b>\$1,387,009</b>	<b>\$1,511,585</b>	<b>\$1,603,913</b>	<b>\$1,612,716</b>	<b>\$2,898,594</b>	<b>\$3,216,629</b>	<b>\$318,035</b>	<b>10.97%</b>

### Program Description

The Water Courts Supervision Program, located in Bozeman, adjudicates claims of existing water rights in Montana pursuant to Title 3, Chapter 7 and Title 85, Chapter 2, MCA.

### Program Highlights

<b>Water Court Major Budget Highlights</b>	
<ul style="list-style-type: none"> <li>◆ Funding for the Water Court increases 11.0 percent or \$318,035 between the 2009 and 2011 biennia</li> <li>◆ Statewide present law adjustments and increased office rental costs comprise the entire increase between the two biennia</li> <li>◆ The program is funded entirely with state special revenue</li> <li>◆ The program goals are relevant to the program and are measurable</li> </ul>	
<b>Major LFD Issues</b>	
<ul style="list-style-type: none"> <li>◆ 2011 biennium proposed expenditures levels from the Water Adjudication account exceed the statutory limit</li> <li>◆ The Natural Resources Operations funding revenues are unable to continue to support all activities</li> <li>◆ No benchmarks for Water Court work related to accelerated claims adjudication have been established in statute</li> </ul>	

### Program Narrative

#### Goals and Objectives

State law requires agency and program goals and objectives to be specific and quantifiable to enable the legislature to establish appropriations policy. As part of its appropriations deliberations the Legislative Fiscal Division recommends that the legislature review the following:

- o Goals, objectives and year-to-date outcomes from the 2009 biennium
- o Goals and objectives and their correlation to the 2011 biennium budget request

### 2009 Biennium Major Goals

No goals related to this program were reviewed during the interim.

### 2011 Biennium Major Goals

The following provides an overview of major goals for the 2011 interim.

Goal 1 – Prepare and update 53 tabulations for district courts to enforce water court decrees.

o Objectives:

- Issue 43 tabulations of existing water rights order by May 2010
- Issue 53 tabulations of existing water rights order by May 2011

#### **LFD COMMENT**

The goal and objectives above are specific, measurable, achievable, relevant and time based. The reader understands what the court seeks to accomplish and within what time frame accomplishment is sought.

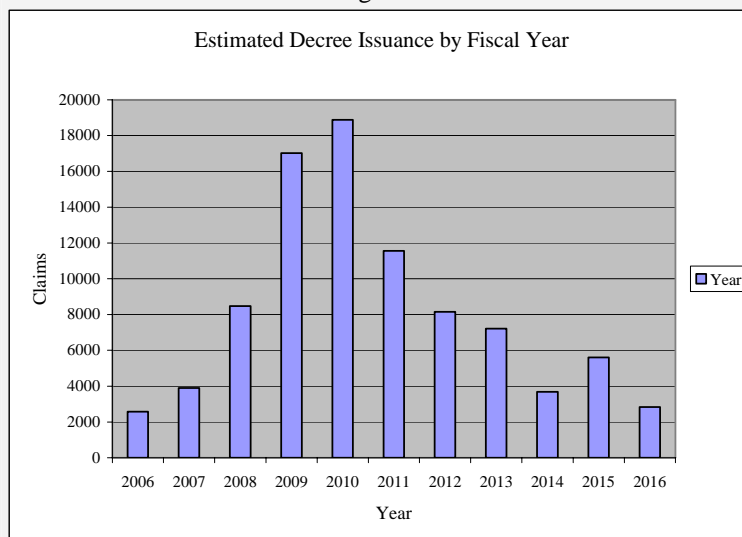
#### **LFD ISSUE**

##### Lack of Benchmarks

The 2005 Legislature took actions to significantly accelerate the adjudication of water claims. Figure 3 illustrates the court's estimate of the number of claims to be adjudicated that are included in the decrees to be issued each fiscal year. The court's estimate is based upon the following assumptions:

- o An objection and issue remark rate of 64 percent, not including certification or motions to amend claims
- o Department of Natural Resources and Conservation meeting its examination and summary report issuance goals
- o Quick resolution of marshalling exam issue and no new adjudication wide exam or other adjudication issues
- o Unresolved federal and Indian reserve water rights currently being negotiated are not included
- o Compliance with 1989 and 1993 legislative mandates to reopen and review decrees pursuant to 85-2-237, MCA is not included
- o That the water court and DNRC maintain current staffing levels and adequate budgetary resources to complete their assigned tasks

Figure 3



The annual number of claims to be adjudicated (based upon decrees to be issued) builds between FY 2006 and FY 2010, with the largest number of claims occurring in FY 2010. Between FY 2011 and 2016 the number of claims to adjudication (based upon decrees to be issued) declines. The court estimates that once a decree is issued it takes about two years before statutory and procedural processes are complete and court staff can begin actively working on the claims in those decrees, meaning that work on the claims to be adjudicated in FY 2009 and 2010 will be available for court staff to actively work on beginning in FY 2011 and 2012.

**LFD  
ISSUE (CONT.)**

While much of this workload will initially impact water masters employed by the court, the water adjudication process may be viewed as a funnel. Once water masters have completed their work the next step of the process funnels the workload to judges. The Water Court has one chief judge and four division water judges. Three of the division water judges are sitting District Court judges who are also responsible for the normal workload of a District Court. The fourth division judge is a retired district court judge who has indicated his intent to retire as water judge in 2009 at the end of his term. Because of these constraints, the majority of the workload is assigned to the chief water court judge. As the adjudication process accelerates, the potential for a backlog of work at the water master level increases and at the judges' level seems inevitable. At the time legislation accelerating water adjudication was passed and approved, benchmarks for processing by the Department of Natural Resource and Conservation (DNRC) were included in law. However, no such benchmarks were established for the Water Court. Given the increase in workload that is now being sent to the court, the legislature may wish to recommend that the Environmental Quality Council (EQC) review benchmarks and time frames for completion of water claims adjudication by water masters and water court judges.

**Funding**

The following table shows program funding, by source, for the base year and for the 2011 biennium as recommended by the approving authority.

Program Funding Table						
Water Courts Supervision						
Program Funding	Base FY 2008	% of Base FY 2008	Budget FY 2010	% of Budget FY 2010	Budget FY 2011	% of Budget FY 2011
02000 Total State Special Funds	\$ 1,387,009	100.0%	\$ 1,603,913	100.0%	\$ 1,612,716	100.0%
02431 Water Adjudication	481,204	34.7%	556,491	34.7%	559,569	34.7%
02576 Natural Resources Operations Ssr Fu	905,805	65.3%	1,047,422	65.3%	1,053,147	65.3%
Grand Total	\$ 1,387,009	100.0%	\$ 1,603,913	100.0%	\$ 1,612,716	100.0%

The Water Court is supported entirely by state special revenue from the renewable resources grant and loan account and the water adjudication account. Legislation passed by the 2007 Legislature (HB 473 of the regular session) transferred \$25.0 million from the general fund to the state special revenue account for adjudication of water rights claims.

*Proposed Expenditure Level Exceeds Statutory Limitation*

Expenditures from the water adjudication account for the Department of Natural Resources and Conservation (DNRC) and Water Court are limited to \$2.6 million per year plus an approved inflation factor for FY 2006 through FY 2015 (85-2-280, MCA). Figure 4 summarizes this account including the FY 2008 actual level of expenditures, FY 2009 appropriated level, and the 2011 biennium budget request. This figure also compares the expenditure level to the limit on expenditures established in statute and illustrates that proposed expenditure levels for FY 2009 through 2011 exceed the statutory limitation. The proposed expenditures are split between DNRC and the Water Court with 18.0 percent of the proposed expenditures being for the Water Court. If the legislature wishes to reduce expenditures proportionally between the two agencies, proposed expenditures for the Water Court would be reduced \$29,989 in FY 2010 and \$17,638 in FY 2011. Additional information on this account may be found in the narrative for the Department of Natural Resources and Conservation.

Figure 4				
Department of Natural Resources and Conservation				
Water Adjudication Fund (02431)				
Item	Actual FY 2008	Appropriated FY 2009	Executive Request	
			FY 2010	FY 2011
Beginning Balance	\$408,672	\$25,312,650	\$23,368,757	\$21,300,873
<u>Expenditures</u>				
Judiciary - Water Court	515,335	559,874	556,491	559,569
DNRC -Water Resources	2,240,386	2,605,671	2,451,438	2,467,534
DNRC - Centralized Services	28,350	28,393	85,000	85,000
Total Expenditures	2,784,071	3,193,938	3,092,929	3,112,103
Revenues	27,688,560	1,250,045	1,025,045	1,275,045
Adjustments	(511)			
Ending Fund Balance	\$25,312,650	\$23,368,757	\$21,300,873	\$19,463,815
Statutory Limit			\$2,926,323	\$3,014,114
Statutory Limit Less Expend.			(166,606)	(97,989)

### *Natural Resources Operations Funding*

The Resource Indemnity Trust related natural resources operations fund was created by HB 116 of the 2007 Legislature to provide a specific fund for general operations of state natural resource agencies. This fund provides operational support to the Department of Natural Resources and Conservation, the Department of Environmental Quality, the Montana Bureau of Mines and Geology, the State Library Commission, and the Water Court. Even with the Governor's proposed funding switches of some functions to coal tax and the general fund, the revenues to the fund are unable to continue to support all activities. By the end of the biennium the fund has a negative ending fund balance, if revenue estimates are accurate and all appropriations are expended.

Further information on the Resource Indemnity Trust may be found in the Legislative Fiscal Division budget analysis of the Department of Environmental Quality in volume 5 of this publication.

### **Budget Summary by Category**

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Summary by Category								
Budget Item	-----General Fund-----				-----Total Funds-----			
	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget
Base Budget	0	0	0	0.00%	1,387,009	1,387,009	2,774,018	86.24%
Statewide PL Adjustments	0	0	0	0.00%	196,485	202,441	398,926	12.40%
Other PL Adjustments	0	0	0	0.00%	20,419	23,266	43,685	1.36%
New Proposals	0	0	0	0.00%	0	0	0	0.00%
<b>Total Budget</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>		<b>\$1,603,913</b>	<b>\$1,612,716</b>	<b>\$3,216,629</b>	

### **Present Law Adjustments**

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget proposed by the Governor. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments										
	-----Fiscal 2010-----					-----Fiscal 2011-----				
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services					192,486					197,702
Inflation/Deflation					806					887
Fixed Costs					3,193					3,852
Total Statewide Present Law Adjustments					\$196,485					\$202,441
DP 5001 - Water Court Rent Increase										
	0.00	0	4,543	0	4,543	0.00	0	6,917	0	6,917
DP 5002 - Water Court Office Expansion										
	0.00	0	15,876	0	15,876	0.00	0	16,349	0	16,349
Total Other Present Law Adjustments										
	0.00	\$0	\$20,419	\$0	\$20,419	0.00	\$0	\$23,266	\$0	\$23,266
Grand Total All Present Law Adjustments					\$216,904					\$225,707

### **Program Personal Services Narrative**

Please refer to the agency narrative for a discussion of the Judicial Branch pay plan and personal service costs.

DP 5001 - Water Court Rent Increase - This proposal requests \$11,460 state special revenue for the biennium to fund a 3 percent annual increase in rent payments.

DP 5002 - Water Court Office Expansion - This proposal requests \$32,225 state special revenue for the biennium to rent an additional 958 square feet of office space. The 2005 Legislature significantly accelerated the pace of statewide adjudication of water rights. As a result, the Water Court estimates issuance of approximately 30 water right decrees in the next 10 years resulting in an estimated 40,000 claim files. The additional space is requested to store the files in an area that provides immediate access.

### Program Budget Comparison

The following table summarizes the total budget requested by the Governor for the agency by year, type of expenditure, and source of funding.

Program Budget Comparison								
Budget Item	Base Fiscal 2008	Approp. Fiscal 2009	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 08-09	Biennium Fiscal 10-11	Biennium Change	Biennium % Change
FTE	5.50	5.50	5.50	5.50	5.50	5.50	0.00	0.00%
Personal Services	367,545	406,106	423,464	423,589	773,651	847,053	73,402	9.49%
Operating Expenses	54,378	42,620	54,794	54,857	96,998	109,651	12,653	13.04%
<b>Total Costs</b>	<b>\$421,923</b>	<b>\$448,726</b>	<b>\$478,258</b>	<b>\$478,446</b>	<b>\$870,649</b>	<b>\$956,704</b>	<b>\$86,055</b>	<b>9.88%</b>
General Fund	421,923	448,726	478,258	478,446	870,649	956,704	86,055	9.88%
<b>Total Funds</b>	<b>\$421,923</b>	<b>\$448,726</b>	<b>\$478,258</b>	<b>\$478,446</b>	<b>\$870,649</b>	<b>\$956,704</b>	<b>\$86,055</b>	<b>9.88%</b>

### Program Description

The Office of Clerk of the Supreme Court Program, pursuant to Title 3, Chapter 2, part 4, conducts the business of the court, and serves as the liaison between the public, attorneys, and the Supreme Court. By statutory authority, the clerk controls the docket and filings, manages the appellate process, and is the custodian of all legal records for the public and the court. Additionally, the clerk administers appellate mediation, maintains the official roll of Montana attorneys, and is responsible for licensing Montana's attorneys. The Clerk of the Supreme Court is an elected official.

### Program Highlights

Clerk of Court Major Budget Highlights	
♦	Funding for the Clerk of Court increases 9.9 percent or \$86,055 between the 2009 and 2011 biennia
♦	Statewide present law adjustments account for the entire increase between the two biennia
Major LFD Issues	
♦	The goal and objective included in this narrative is difficult to measure because the term "efficiently" lacks definition

### Program Narrative

#### Goals and Objectives

State law requires agency and program goals and objectives to be specific and quantifiable to enable the legislature to establish appropriations policy. As part of its appropriations deliberations the Legislative Fiscal Division recommends that the legislature review the following:

- o Goals, objectives and year-to-date outcomes from the 2009 biennium
- o Goals and objectives and their correlation to the 2011 biennium budget request

#### 2009 Biennium Major Goals

No goals related to this program were reviewed during the interim.



### 2011 Biennium Major Goals

The following provides an overview of major goals for the 2011 interim.

Goal 1 – Continue to provide direct service to the public, attorneys, and the Supreme Court in compliance with statutory law and court rule in managing appellate filings in an accurate and timely manner.

- o Objective – Review and assess applicable statutes and rules, especially Title 25, Chapter 21 MCA, to ensure legal cases are handled efficiently - June 2009

#### LFD ISSUE

Term Efficiently Lacks Definition

Goals and objectives should be specific, measurable, achievable, relevant, and time based (SMART). The goal as stated above is difficult to measure because the term “efficiently” is not defined. This goal and objective could be strengthened by the addition of information that defined “efficiently”.

### Funding

The following table shows program funding, by source, for the base year and for the 2011 biennium as recommended by the approving authority.

Program Funding Table Clerk Of Court						
Program Funding	Base FY 2008	% of Base FY 2008	Budget FY 2010	% of Budget FY 2010	Budget FY 2011	% of Budget FY 2011
01000 Total General Fund	\$ 421,923	100.0%	\$ 478,258	100.0%	\$ 478,446	100.0%
01100 General Fund	<u>421,923</u>	<u>100.0%</u>	<u>478,258</u>	<u>100.0%</u>	<u>478,446</u>	<u>100.0%</u>
Grand Total	<u>\$ 421,923</u>	<u>100.0%</u>	<u>\$ 478,258</u>	<u>100.0%</u>	<u>\$ 478,446</u>	<u>100.0%</u>

The Clerk of Courts Office is funded entirely from the general fund.

### Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Summary by Category								
Budget Item	-----General Fund-----				-----Total Funds-----			
	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget
Base Budget	421,923	421,923	843,846	88.20%	421,923	421,923	843,846	88.20%
Statewide PL Adjustments	56,335	56,523	112,858	11.80%	56,335	56,523	112,858	11.80%
Other PL Adjustments	0	0	0	0.00%	0	0	0	0.00%
New Proposals	0	0	0	0.00%	0	0	0	0.00%
<b>Total Budget</b>	<b>\$478,258</b>	<b>\$478,446</b>	<b>\$956,704</b>		<b>\$478,258</b>	<b>\$478,446</b>	<b>\$956,704</b>	

### Present Law Adjustments

The “Present Law Adjustments” table shows the primary changes to the adjusted base budget proposed by the Governor. “Statewide Present Law” adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments									
-----Fiscal 2010-----					-----Fiscal 2011-----				
FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services				55,919					56,044
Inflation/Deflation				416					479
<b>Total Statewide Present Law Adjustments</b>				<b>\$56,335</b>					<b>\$56,523</b>
<b>Grand Total All Present Law Adjustments</b>				<b>\$56,335</b>					<b>\$56,523</b>

### Program Personal Services Narrative

Please refer to the agency narrative for a discussion of the Judicial Branch pay plan and personal service costs.